

1
2
3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5

6 **MARC OLIN LEVY,**

7 Plaintiff,

8 vs.

9 **KROGER FOODS CO, ET AL.,**

10 Defendants.
11

CASE NO. 18-mc-80116-YGR

**ORDER DENYING LEAVE OF COURT TO FILE
A NEW ACTION**

Re: Dkt. Nos. 1, 2

12 The Court has received plaintiff's Proposed Complaint and Application to Proceed *in*
13 *Forma Pauperis*, both filed on June 8, 2018. (Dkt. Nos. 1, 2.) Plaintiff Marc Olin Levy has
14 previously been declared a vexatious litigant whose submissions are subject to pre-filing review.
15 *Marc Olin Levy v. First Group/Greyhound*, 17-cv-00412-KAW, at *7 (N.D. Cal. 2017).
16 Therefore, any complaints filed by Levy are subject to review by the general duty judge to
17 "determine whether plaintiff has stated a potentially cognizable claim in a short, intelligible, and
18 plain statement." *Id.*

19 Plaintiff's proposed complaint alleges that he applied and interviewed for a position at
20 Safeway Food Stores in October 2016 and subsequently received an offer on November 6, 2016.
21 (Dkt. No. 1.) Plaintiff alleges that he was told he had to wait 2 to 30 days for a background check
22 to clear before he could begin work. (*Id.*) He claims that after 30 days with no communication, he
23 reached out to his previous hiring contact and did not receive a response. (*Id.*) Plaintiff says that
24 he does not know why he was not hired and notes that Safeway had "no good reason not to hire"
25 him. (*Id.*) He seeks \$100 million in damages. (*Id.*) Although plaintiff describes the nature of his
26 action as one of "employment discrimination/wrongful termination/breach of contract [,]" he does
27 not assert a basis for discrimination or identify himself as a member of a protected class. (*Id.*)

28 The proposed complaint would be plaintiff's fifth lawsuit alleging that a potential

1 employer discriminated against him in not hiring him filed in the Northern District of California in
2 the past five years. *See Levy v. State Farm Mutual Auto Ins. Co.*, Case No. 14-cv-4073-EDJ
3 (seeking \$250 million based on defendant not hiring plaintiff because of plaintiff's criminal
4 record)¹; *Levy v. Northwestern Mutual Life Ins. Co.*, Case No. 14-cv-4116-EJD (Seeking \$200
5 million based on the defendant not hiring plaintiff because of his lack of a bachelor's degree);
6 *Levy v. Mass Mutual Life Ins. Co.*, Case No. 15-cv-6136-EDL (seeking \$2 billion based on the
7 defendant not hiring plaintiff because of plaintiff's debt); *Levy v. Primerica, Inc.*, Case No. 16-cv-
8 1254-HRL (seeking \$2 billion based on defendant disqualifying plaintiff's job application because
9 of his criminal record).

10 Because plaintiff fails to state a potentially cognizable claim in a short, intelligible, and
11 plain statement, the Court **DENIES** plaintiff's request for leave of court to file a new action. The
12 Clerk shall **STRIKE** Docket Numbers 1 and 2 from the record and terminate this case.

13 **IT IS SO ORDERED.**

14
15 Dated: July 9, 2018

16 
17 YVONNE GONZALEZ ROGERS
18 UNITED STATES DISTRICT COURT JUDGE
19
20
21
22
23
24
25
26
27

28 ¹ Plaintiff's proposed complaint does not mention a criminal record.